

Original Title Page

NAME: Schuyler Line / US Ocean Space Charter and Cooperative
Working Agreement

FMC NO: 012492

CLASSIFICATION: Space Charter and Cooperative Working Agreement

EXPIRATION DATE: See Article 9

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ARTICLE 1: FULL NAME OF AGREEMENT

The full name of this Agreement is the Schuyler Line / US Ocean Space Charter and Cooperative Working Agreement (“the Agreement”).

ARTICLE 2: PURPOSE OF AGREEMENT

The purpose of this Agreement is to authorize the Parties to agree on cooperative working arrangements and to charter space on each other’s vessels in connection with the carriage of cargo on terms and conditions agreed to between the Parties in the trades defined in Article 4 of this Agreement in order to provide efficient, competitive services with greater frequency, optimal scheduling commercial operation, and value to shipper customers without creating restrictions on trade or degradation of ocean services. Utilizing a vessel pool structure, the Agreement will permit the Parties to provide more efficient and competitive commercial management and operation of vessels pooled hereunder, under the control of a pool manager, so as to secure a greater balance of exports and imports, improved commercial utilization, earnings for contributed vessels, and more efficient, pooled support activities including back-office, equipment management, and bulk purchasing of necessities as outlined herein.

ARTICLE 3: PARTIES TO THE AGREEMENT

The Parties to this Agreement are:

- (1) Schuyler Line Navigation Company, L.L.C.
130 Severn Avenue #201
Annapolis, Maryland 21403
(herein referred to as (“Schuyler Line”))
- (2) U.S. Ocean, L.L.C.
55 Waugh Drive
Houston, Texas 77007
(herein referred to as (“US Ocean”))

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The scope of this Agreement is transportation of vehicles and other cargo from ports on the East, West, and Gulf Coasts of the United States and U.S. inland and coastal points served via such U.S. ports, on the one hand, to ports in the locations listed on Appendix 1 hereto, and inland and coast points served via such non-U.S. ports (the foregoing geographic scope referred to in this Agreement as “the Trade”).

ARTICLE 5: OVERVIEW OF AGREEMENT AUTHORITY

5.1 Under this Agreement, each Party may charter space in the Agreement Trade on an “as needed/as available” basis, up to the full reach of a vessel, on vessels owned, chartered, or managed by the other, on such terms and conditions as the Parties may agree from time to time. To facilitate efficient operations and to provide fair and efficient services under this Agreement, the Parties are authorized to discuss and agree upon their space requirements and the availability of such space in vessels owned, chartered, or managed by the Parties; the place and timing of the provision of space, scheduling and the trades in which the parties may market space chartered on the vessels, procedures for booking space, for documentation, for cargo handling instructions or requirements, and for other administrative matters relating to chartering and transportation provided under this Agreement; the number, size and capacity, speed, consumption, and other features of the vessels to be operated under this Agreement; and the terms and conditions for the use or interchange of equipment useful in the carriage of cargo in the Trade covered by this Agreement.

5.2 Under this Agreement the Parties may utilize up to ten (10) heavylift multipurpose, container fitted, breakbulk vessels at any time but may, from time to time, employ up to five (5) additional vessels to meet seasonal shipper demand.

5.3 Compensation for any space chartered pursuant to this Agreement shall be upon such terms and at such hire (expressed either as a fixed sum, a percentage of freight, or indexed shares of a net revenue pool for vessels subject to this Agreement, consistent with the methodology contemplated by the BIMCO POOLCON using a point system, with points awarded on the basis of the commercial utility / capacity of contributed vessels as well as the working days of those vessels) as the Parties may from time to time agree. BIMCO POOLCON Clauses 13 and 17 set forth further detail regarding the contemplated structure with respect to revenue apportionment, as may be agreed from time to time. Initial revenue contribution to be determined by the Parties, with initial contributions contemplated as thirty (30) days' hire plus bunkers. Billing, collection, and payment terms and conditions shall also be as agreed between the Parties from time to time.

5.4 The Parties are authorized to discuss and agree upon arrangements for the use of terminals, inland transportation equipment and service providers (i.e., through transportation for overland service such as trucking, rail, containers, flat racks, and other equipment related to inland transport where required by shipping terms), stevedoring services in connection with the chartering of space hereunder, in regard to entering into exclusive, preferential, or cooperative working arrangements with marine terminal operators and any person relating to marine terminal, stevedoring, inland transportation, cargo inspection, or other shoreside services including warehousing, port agency, packing, and rail, trucking, intermodal and equipment services, cargo

superintendent, cargo documentation, lifting and lashing gear, technical management, and inland equipment and services; such contracts or agreements may be entered into by either Party, or concurrently among both Parties and the service or equipment providers, with such joint contracting limited to the pooled vessels. Nothing herein, however, shall authorize the Parties jointly to operate a marine terminal in the United States. Notwithstanding any term or provision of this Agreement, the Agreement does not extend antitrust immunity to discussions or agreements between the Parties excepted from the antitrust immunity conferred by the Shipping Act of 1984 under 46 U.S.C. § 40307(b).

5.5 The Parties are authorized to exchange information on any matter within the scope of this Agreement and to reach agreement on any and all administrative and operational functions related hereto including forecasting, terminal operations, inland and intermodal arrangements, stowage planning, insurance, liability, cargo claims, indemnities, the terms of bills of lading issued by the pool manager, failure to perform, and force majeure. The Parties are authorized to discuss and agree upon the deployment, scheduling, ports to be called and port rotation of the vessels operated hereunder, and to modify sailing frequencies and itineraries from time to time. Nothing herein authorizes the Parties to jointly discuss and set rates.

5.6 The Parties are authorized to enter into agreements concerning routine operational or administrative matters to implement the foregoing. Pursuant to 46 C.F.R. § 535.408, any further agreement which does not concern the authorities set forth herein including routine operational or administrative matters cannot go into effect unless filed and effective under the Shipping Act of 1984, as amended.

5.7 The Parties are authorized to time charter committed vessel capacity to the pool manager, expected to be US Ocean, who will have commercial control of the vessels chartered to it as pool manager. Schuyler Line will be authorized to act as the commercial booking agent for government impelled cargoes and others as may be deemed desirable by the pool manager from time to time. The pool manager shall not sub-charter space made available hereunder to another unaffiliated carrier (defined as a carrier not under common control with either Party) without the prior consent of the other Party, and neither Party will provide common carriage using United States flag vessels in the Trade outside of this Agreement

5.8 The Parties may agree upon common positions and present these, jointly or separately, to the United States and foreign governments, departments, agencies, and governmental entities.

5.9 The Parties may agree upon and investigate economic and competitive positions, and agree upon coordination of vessel sailings, chartering, joint service, pooling as agreed consistent with the Appendix 2 hereto BIMCO POOLCON, and other forms of efficient and competitive operation and management of their U.S.-flag service, and agreed or uniform rules, practices, and procedures relating thereto: positions regarding the U.S. Department of Defense Universal Service Contract 08 and successor contracts thereto, humanitarian cargoes for the United States Department of Agriculture and the United States Agency for International Development, and other government-impelled cargoes. Nothing in this Agreement, however, authorizes the Parties to discuss or agree upon, or to carry out, any arrangement which is required to be separately

filed under the Shipping Act of 1984, unless separately filed and effective under the Shipping Act of 1984.

5.10 Each Party shall remain separately responsible for the operation, financing, insurance, and technical management of its vessels operated within the Trade subject to this Agreement and shall remain (disponent) owners of their contributed vessels.

ARTICLE 6: OFFICIALS OF THE AGREEMENT AND DELEGATION OF AUTHORITY

The following shall have the authority to file this Agreement and any modification hereto and to delegate same:

- a. any authorized officer or official of each Party;
- b. legal counsel for each Party.

ARTICLE 7: MEMBERSHIP, WITHDRAWAL, READMISSION AND EXPULSION

Any Party hereto may resign upon not less than ninety (90) days' advance written notice to the other Parties, or in the event a Party does not receive unanimous approval to a requested assignment under Article 10, upon not less than thirty (30) days of such request for approval. No additional party may join this Agreement without unanimous consent of the Parties.

ARTICLE 8: VOTING

Except as otherwise provided herein, all decisions hereunder shall require the agreement of both Parties.

ARTICLE 9: DURATION AND TERMINATION OF THE AGREEMENT

This Agreement shall take effect on the date it becomes effective under the Shipping Act of 1984, as amended and shall remain in effect until it is terminated by mutual agreement of the

Parties or until all but one of the Parties resigns pursuant to Article 7 hereof. The foregoing is without prejudice to any Party's remedies for breach of the Agreement.

ARTICLE 10: NON-ASSIGNMENT

The rights and obligations of each Party under the Agreement herein shall not be assignable except to subsidiaries, parent companies or fellow subsidiaries or with the prior unanimous agreement. Each Party shall warrant that any subsidiary or fellow subsidiary to which any assignment is made shall not be sold to another Party.

ARTICLE 11: ARBITRATION

a. Except as otherwise provided herein, any dispute or claim arising hereunder which is not amicably settled by the Parties shall be settled by arbitration. Arbitration shall be held in New York, New York, under the rules then in effect of the Society of Maritime Arbitration, Inc. (the "Society's Rules") by three arbitrators familiar with ocean ro-ro shipping who shall have no financial or personal interest whatsoever in or with any Party and shall not have acquired a detailed prior knowledge of the matter in dispute. Upon unanimous agreement among the Parties involved in the dispute, arbitration may be held in any other place.

b. Any Party hereto may call for such arbitration by service upon the other of a written notice specifying a brief description of the disputes, the monetary amount involved, if any, the differences which such Party desires to put to arbitration and the remedy sought. Within fifteen (15) days after service of such notice, each Party shall appoint an arbitrator and the two arbitrators so chosen shall appoint a third arbitrator. In event either Party fails to appoint an arbitrator within the time provided, or if the two Party appointed arbitrators are unable to agree upon the third arbitrator, either Party may request the President of the Society of Maritime Arbitrators, Inc. to

appoint such arbitrator. The arbitration shall thereafter be conducted under the Society's Rules except as expressly provided herein.

c. For any disputes involving \$100,000 or less, excluding interest, costs of arbitration and legal fees and expense, the dispute is to be governed by the "Shortened Arbitration Procedure" unless a Party objects, in which case the Parties shall arbitrate on documents only, as contemplated under section 27 of Society's Rules.

d. The panel's decision, including written findings of fact and conclusions, shall be rendered within the period provided in the Society's Rules. Judgment may be entered on an award of the arbitrators and shall be enforceable in a court of competent jurisdiction. The arbitrators may allocate the costs of arbitration, along with reasonable attorney fees, to one or more participating Parties in a manner consistent with the award or decision. The arbitrator may not award exemplary or punitive damages and may not order specific performance.

e. A copy of the decision shall be served by the arbitrators on the Parties. Notwithstanding subsection a. above, the Parties expressly agree that any award resulting from such arbitration shall be withheld from publication by the Society of Maritime Arbitrators, Inc. and/or its correspondents.

f. In the event of any dispute arising under any contract of carriage for cargo transported under this Agreement, the dispute as between the Parties shall be resolved under the provisions of Article 11 and Article 12 notwithstanding any conflicting provision for jurisdiction or applicable law in the contract of carriage, which conflicting provision shall be disregarded.

ARTICLE 12: APPLICABLE LAW AND SEVERABILITY

a. The interpretation, construction and enforcement of this Agreement shall be governed by (i) the laws of the State of New York without reference to the laws respecting conflicts of laws, and (ii) to the extent applicable, the laws of the United States.

b. Notwithstanding the foregoing, if any term or provision to this Agreement shall be held to be illegal or unenforceable, in whole or in part, under any applicable enactment or rule or law, such term or provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected.

ARTICLE 13: COUNTERPARTS

This Agreement and any future amendment hereto may be executed in counterparts. Each such counterpart shall be deemed an original, and all together shall constitute one and the same agreement. This Agreement may be executed and delivered by exchange of facsimile.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereby agree this 26th day of September 2017 to
execute this Agreement and to file same with the Federal Maritime Commission.

Schuyler Line Navigation Company, L.L.C.

By:  _____

Name: _____ Russell Paret

Title: _____ President

U.S. Ocean, L.L.C.

By: _____

Name: _____

Title: _____

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereby agree this 26th day of September 2017 to
execute this Agreement and to file same with the Federal Maritime Commission.

Schuyler Line Navigation Company, L.L.C.

By: _____

Name: _____

Title: _____

U.S. Ocean, L.L.C.

By:  _____

Name: William K. Terrill

Title: President and CEO

Appendix 1

Spain	South Africa	
Gibraltar	Ascension Island	
France	St. Helena	
Italy	Madagascar	
Croatia	Tanzania	
Albania	Kenya	
Greece	Somalia	
Turkey	Djibouti	
Syria	Sudan	
Lebanon	Yemen	
Cyprus	Belize	
Malta	Guatemala	
Israel	Honduras	
Egypt	Nicaragua	
Libya	Costa Rica	
Tunisia	Panama	
Algeria	Colombia	
Morocco	Venezuela	
Saudi Arabia	Guyana	
Mauritania	Suriname	
Senegal	French Guyana	
The Gambia	Trinidad & Tobago	
Guinea-Bissau	Dominican Republic	
Cape Verde	Haiti	
Guinea	Jamaica	
Sierra Leone	El Salvador	
Liberia	Canary Islands	
Cote D'Ivoire	Mozambique	
Ghana	Jordan	
Togo		
Benin		
Nigeria		
Cameroon		
Equatorial Guinea		
Sao Tome & Principe		
Gabon		
Republic of the Congo		
Democratic Rep. of Congo		
Angola		
Namibia		

Appendix 2: Bimco Poolcon

Revised: Bimco (01/2018)

Explanatory Notes to POOLCON A are available in the Bimco website

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<div style="display: inline-block; text-align: right; vertical-align: middle;"> POOLCON A <small>STANDARD POOLING AGREEMENT FOR DRY AND LIQUID BULK CARGOES CARRIED ON A TRAMP BASIS</small> PART I </div>	
1. Place and date of Agreement (CL12)	2. Commencement Date (CL13)
3. Owners (CL1, Annex A) (i) Name: (ii) Place of registered office: (iii) Law of registry:	4. Pool Managers (CL1) (i) Name: (ii) Place of registered office: (iii) Law of registry:
5. Participating Charter (CL1, Annex B)	
6. Duration of Transportation Contract (state number of months, if left blank, six (6) months will apply) (CL9(a)(ii), CL18(a)(ii)(c))	7. Voyages Pooling Period (state number of months, if left blank, twelve (12) months will apply) (CL9(a))
8. Pool Committee Representatives (state number) (CL10)	9. Percentage required to call an extraordinary Participating Meeting (state percentage, if left blank, twenty-five per cent (25%) will apply) (CL12(b))
10. Vessel Charter-out Commitments Period (CL12(a)(ii))	11. Annual Value for Buying Services or Supplies (state amount) (CL12(b)(ii))
12. Pool Managers' Remuneration (state amount) (CL15(b)(ii))	13. Interest (state rate of interest, if left blank, three (3%) per cent per annum will apply) (CL18(b)(ii))
14. Optional Insurance (state type of cover) (CL20(a)(i)(c))	15. Dispute Resolution (state alternative CL20(a), 20(b) or 20(c); if 20(a) agreed, place of arbitration must be stated) (CL20)
16. Notices (state full style contact details for serving notice and communication to the Owners) (CL23(a))	17. Notices (state full style contact details for serving notice and communication to the Pool Managers) (CL23(a))

It is mutually agreed between the party stated in Box 3 and the party stated in Box 4 that this Agreement consisting of PART I and PART II as well as Annexes "A" (Pool Participants), "B" (Participating Charter), "C" (Pool Vessels and Pool Points), "D" (Pool Points Formula) and Annex "E" (Accession Agreement) attached hereto, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I and Annexes "A", "B", "C", "D" and "E" shall prevail over those of PART II to the extent of such conflict but no further.

Signature(s) (Owners)	Signature(s) (Pool Managers)
-----------------------	------------------------------

This document is a computer generated POOLCON A form printed by authority of BIMCO. Any insertion or deletion to the form must be clearly visible. In the event of any modification made to the pre-printed text of this document which is not clearly visible, the text of the original BIMCO approved document shall apply. BIMCO assumes no responsibility for any loss, damage or expenses as a result of discrepancies between the original BIMCO approved document and the computer generated document.

Part II
POOLCON A – Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

BIMCO STANDARD POOLING AGREEMENT
For dry and liquid bulk cargoes carried on a tramp basis

IMPORTANT NOTE TO USERS

Use of this Standard Pooling Agreement does not guarantee compliance with competition rules. There are over 100 jurisdictions with competition rules; parties should take competition advice.

Market share, level of concentration and structure of the market, as well as limitations as to turnover and number of vessels owned can affect whether the pool is legal under various jurisdictions.

Generally, calling at a port will mean that the laws in that country of that port will apply, but the country of origin and destination of the cargo may also be relevant to jurisdiction.

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Explanatory Notes for POOLCON A are available from BIMCO at www.bimco.org

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Part II
POOLCON A– Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

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Part II
POOLCON A- Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

1. Definitions

- "Additional Tonnage" means vessels owned and operated by non-Participants, and chartered in by the Pool Managers on time or voyage basis.
- "Charterers" are the Pool Managers.
- "Commencement Date" means the date agreed as the commencement date by all the Participants and stated in [Box 2](#).
- "Hire" means the payments made to Participants in accordance with [Clause 16](#) (Hire).
- "Owners" means the owners or disponent owners of a Pool Vessel, stated in [Box 3](#) and Annex A (Pool Participants).
- "Participants' Meeting" means the meeting of the representatives of all the Participants, which is the highest authority of the Pool having power and organized in accordance with [Clause 12](#) (Participants' Meeting) and otherwise as provided in this Pool Agreement.
- "Participants" means the Owners listed in Annex A (Pool Participants) who have effective operational control of the Pool Vessels listed against their names in Annex C (Pool Vessels and Pool Points) hereto and have agreed to participate in the Pool on the terms and conditions as set out below.
- "Participating Charter" means the standard form of time charter party stated in [Box 5](#), as amended in the form of Annex B (Participating Charter) attached.
- "Pool" means the pooling of time charter hire, voyage receipts earned by and expenses incurred by the Pool Vessels and the activities performed by the Pool Managers pursuant to this Pool Agreement.
- "Pool Accounts" means the accounting records in relation to Pool Gross Revenue, Pool Expenses, Pool Net Revenue in respect of all Pool Vessels for the period reviewed, including all payments of Hire or Pool Points.
- "Pool Agreement" means Parts I and II and Annexes A (Pool Participants), B (Participating Charter), C (Pool Vessels and Pool Points) and D (Pool Points Formula) of this Agreement.
- "Pool Committee" means the body established to assist, monitor and supervise the Pool Managers in conjunction with the Participants' Meeting as more fully described in [Clause 12](#) (Participants' Meeting).
- "Pool Expenses" means the expenses referred to in [Clause 13](#) (Calculation of Pool Gross Revenue, Pool Net Revenue and Pool Expenses).
- "Pool Gross Revenue" means the gross revenue referred to in [Clause 13](#) (Calculation of Pool Gross Revenue, Pool Net Revenue and Pool Expenses).
- "Pool Managers" means the party stated in [Box 4](#).
- "Pool Net Revenue" means the net revenue referred to in [Clause 13](#) (Calculation of Pool Gross Revenue, Pool Net Revenue and Pool Expenses).
- "Pool Points Formula" means the formula used for division of the Pool Net Revenue as described in [Clause 13](#) (Calculation of Pool Gross Revenue, Pool Net Revenue and Pool Expenses) and Annex D (Pool Points Formula) hereto, and as determined from time to time under [Clause 17](#) (Pool Points).
- "Pool Points Share" means the entitlement of Participants to share in Net Pool Revenue.
- "Pool Points" means each Pool Vessel's relative earning capacity as determined in accordance with [Clause 17](#) (Pool Points) and set out in Annex C (Pool Vessels and Pool Points) or determined by the Participants' Meeting.
- "Pool Vessel" means a Qualifying Vessel that has entered into service under this Pool Agreement.
- "Pool Year" means each calendar year during the term of this Pool Agreement.

Part II
POOLCON A- Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

- 40 "Qualifying Vessel" means a vessel of a similar size and type under various ownerships.
- 41 "Substitute Vessel" means a Qualifying Vessel provided to the Pool Managers in place of a Pool Vessel.
- 42 "Transportation Contract" means any contract for the use of a vessel or the carriage of goods, other than the
43 Participating Charter.
- 44 2. Pool Agreement
- 45 (a) This agreement is made between each of the Participants, and the Participants and the Pool Managers on the date
46 stated in [Box 1](#). The Participants have agreed to establish and operate a Pool of vessels as described in Annex C (Pool
47 Vessels and Pool Points) and the Pool Managers agree to operate the Pool on the terms and conditions set out below.
- 48 (b) All Pool Vessels shall be on time charter to the Pool Managers in accordance with the Participating Charter. Subject
49 to any contrary provisions herein, time and place for delivery and place of redelivery of the Pool Vessels shall be
50 effected in accordance with the Participating Charter.
- 51 (c) All contracts entered into with third parties in respect of employment and operation of the Pool Vessels and
52 Additional Tonnage shall be in the Pool Managers' own name and, subject to the terms of this Pool Agreement, for the
53 sole risk and responsibility of the Pool Managers.
- 54 (d) The Pool Managers shall under no circumstances be considered as it, and this Pool Agreement shall not be
55 construed to the effect that the Pool Managers are the agents of the Participants, nor shall the Participants under any
56 circumstances whatsoever be regarded as the Pool Managers' principals. The Pool Managers shall act as time-
57 chartered Owner of the Pool Vessels.
- 58 3. No Partnership
- 59 Nothing contained in the Pool Agreement, or in any other document relating to the Pool, shall be construed as
60 constituting a partnership between the Participants and the Pool Managers or any of them. The obligations of each
61 Participant under this Pool Agreement shall be owed to the Pool Managers alone and not to the other Participants save
62 in the case of obligations under [Clauses 4](#) (Indemnity, Liability and Security), [26](#) (Confidentiality) and [29](#) (Dispute
63 Resolution).
- 64 4. Indemnity, Liability and Security
- 65 If a claim is made against a Participant ("Indemnified Party") or its affiliate, or any seizure, distraint, arrest, detention,
66 attachment or the like ("Arrest") effected in respect of property owned, controlled or possessed by the Indemnified Party
67 or its affiliate by reason of a claim against another Participant or its affiliate or the Pool Managers ("the Indemnifying
68 Party") or in respect of any property owned, controlled or possessed by the Indemnifying Party then the Indemnifying
69 Party shall:
- 70 (a) indemnify and hold harmless the Indemnified Party and its affiliate against the claim and the Arrest, and all costs,
71 losses, liabilities and expenses (including legal expenses) arising therefrom;
- 72 (b) without limitation to the foregoing, provide security to ensure that any Arrest is lifted or discharged as soon as
73 possible.
- 74 Each Participant shall be liable for its own performance under this Agreement and each Participating Charter but (for
75 the avoidance of doubt) shall not be jointly or severally liable with any other Participant or for the obligations of any
76 other Participant.
- 77 5. Objective of the Pool Agreement
- 78 The purpose of the Pool Agreement is to provide the expertise and supportive activities required to develop and
79 manage services to facilitate the commercial operation, employment, efficiencies and common marketing of the Pool
80 Vessels. This shall be achieved through the optimal use of the Pool Vessels by improved scheduling to reduce ballast
81 legs, bulk buying of goods and services related to voyage expenses, creating economies of scale and critical mass,
82 and maximising flexibility, reliability and competitiveness so as to provide the best possible services to the market and
83 in the end to the benefit of consumers.
- 84 6. Authority of the Pool Managers
- 85 The Pool Managers shall, in their own name, enter into various Transportation Contracts as deemed fit by the Pool
86 Managers and otherwise as set out in [Clause 8](#) (Pool Management).

Part II
POOLCON A- Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

- 87 7. Pool Vessels
88 (a) Each Participant shall in relation to each Pool Vessel be solely responsible and liable for the procurement,
89 financing, insurance, manning and technical management of its Pool Vessels in accordance with the terms and
90 conditions of the Participating Charter.
- 91 (b) The Pool Managers may charter in Additional Tonnage if required to meet their commitments or for more efficient
92 operation of the Pool.
- 93 8. Pool Management
94 (a) The Pool Managers shall at all times have adequate, sufficient and competent personnel to carry out Pool related
95 activities including but not limited to:
- 96 (i) performance of commercial management and operations;
97 (ii) provision of backup services for marketing activities, the marketing of the services of the Pool Vessels including
98 market research, trade forecasting and market planning;
99 (iii) performance of accounting services and the preparation of financial statements;
100 (iv) calculation and distribution of the Pool Net Revenue;
101 (v) Issuing instructions to Masters, scheduling of the Pool Vessels, arrangement of agencies, tugs, lighterage,
102 bunkers and all other matters in support of the commercial operation of the Pool Vessels;
103 (vi) voyage estimating, accounting, and calculation of hire, freights, demurrage and/or despatch monies due from or
104 due to the charterers of Pool Vessels;
105 (vii) payment and collection of the expenses, revenues and all other amounts due relating to the commercial
106 operation of the Pool Vessels;
107 (viii) budgeting, accounting and reporting relating to the Pool;
108 (ix) setting up and maintaining bank accounts appropriate to the operation of the Pool;
109 (x) entering into insurance contracts in accordance with [Clause 20](#) (Insurance Policies); and
110 (xi) reviewing the Pool Points Formula and advising the Participants of any revisions which the Pool Managers shall
111 propose to ensure the Pool Points Formula is fair and equitable (see [Sub-clause 12\(e\)\(ii\)](#)).
- 112 (b) The Pool Managers may enter into any contracts required for the commercial operation, promotion and marketing of
113 the Pool.
- 114 (c) The Pool Managers shall perform the duties of charterers under the Participating Charter including the payment of
115 Hire in accordance with [Clause 16](#) (Hire).
- 116 (d) The Pool Managers shall implement all decisions made in accordance with this Agreement and can sue and be
117 sued in respect of any dispute under this Agreement.
- 118 (e) The Pool Managers shall, at all times and without discrimination between Participants, use all reasonable
119 endeavours to protect and promote the interests of the Pool and shall conduct themselves in a way which ensures
120 fulfilment of the aims of this Pool Agreement.
- 121 9. Pool Managers' Authority
122 The Pool Managers shall have authority to:
- 123 (a) enter into, draw up and handle the performance of Transportation Contracts for periods not exceeding the number
124 of months stated in [Box 6](#) or, if left blank, six (6) months or the equivalent number of voyages provided such voyages
125 are scheduled to be performed within the number of months stated in [Box 7](#) or, if left blank, twelve (12) months;
- 126 (b) charter in Additional Tonnage for periods not exceeding the number of months stated in [Box 6](#) or, if left blank, six (6)
127 months; and

Part II
POOLCON A- Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

- 128 (c) sign Accession Agreements as set out in Annex E (Accession Agreement) on behalf of themselves and the
129 Participants to bring in new participants to the Pool by resolution of the Participants' Meeting in accordance with [Clause](#)
130 [12\(f\)\(III\)](#).
131
- 132 10. **Pool Committee**
133 The Pool Committee shall consist of the number of representatives and alternates stated in [Box 8](#) and shall be
134 nominated by the Participants' Meeting.
- 135 (a) The Pool Committee shall meet regularly and as frequently as necessary for the proper discharge of its functions.
136 (b) The decisions of the Pool Committee shall be made by ordinary majority of those present.
137 (c) The Pool Committee shall elect its own chairman.
138 (d) The primary task of the Pool Committee shall be to supervise and monitor the Pool Managers and to protect the
139 interests of the Pool.
140 (e) The Pool Committee shall be convened at not less than seven (7) days' notice. The notice convening the meeting
141 shall state the agenda. Resolutions may not be adopted in a matter not included in the agenda unless all Pool
142 Committee members are represented and consent thereto.
143 (f) A Pool Committee member may be represented by proxy who shall have full voting rights.
- 144 11. **Pool Committee Authority**
145 (a) The Pool Committee shall have authority to:
146 (i) set the agenda, time, date and venue of the Participants' Meetings;
147 (ii) approve new Pool Vessels from existing Participants, and Substitute Vessels nominated for inclusion in the
148 Pool;
149 (iii) enter into Transportation Contracts with third parties committing a Pool Vessel for more than six (6) months but
150 less than twelve (12) months, subject to [Sub-clause 9\(a\)](#) and the approval of the Owner of the Pool Vessel;
151 (iv) charter-in Additional Tonnage for more than six (6) months but less than twelve (12) months;
152 (v) approve the Pool Managers' entry into forward currency exchange contracts, bunker hedging contracts, forward
153 freight agreements (FFAs), and other hedging contracts relevant to the business of the Pool, but all such
154 contracts shall be for periods of not more than twelve (12) months; and
155 (vi) undertake such other activities as the Participants' Meeting may authorize in connection with the Pool and its
156 activities.
157 (b) The Pool Committee shall, at all times and without discrimination between Participants, use all reasonable
158 endeavours to protect and promote the interests of the Pool and shall conduct itself and cause the Pool Managers to
159 act in a way which ensures fulfillment of the aims of this Pool Agreement.
- 160 12. **Participants' Meeting**
161 (a) An ordinary Participants' Meeting shall take place at least once a year with not less than twenty-one (21) days'
162 notice stating the time and place, together with an agenda for the meeting stating the business to be considered.
163 (b) An extraordinary Participants' Meeting may be called by Participants representing the percentage stated in [Box 9](#)
164 (or if left blank, twenty-five per cent (25%)) of the total number of Pool Vessels with not less than fourteen (14) days'
165 notice stating the time and place, together with an agenda for the meeting stating the business to be considered. A
166 Participants' Meeting shall also be convened in the event of the Pool Managers giving notice of termination in
167 accordance with [Clause 21](#) (Termination by Pool Managers).
168 (c) The Pool Managers shall take minutes of the Participants' Meeting and such minutes shall be distributed to all
169 Participants as soon as possible.

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- 170 (d) The following matters shall be resolved by an ordinary majority based on the number of Pool Vessels owned or
171 controlled by the Participants, each Pool Vessel giving one vote, present or represented, at the Participants' Meeting:
- 172 (i) approval of the annual accounts for the Pool operations;
- 173 (ii) approval of the annual budget;
- 174 (iii) consideration of any matter brought to the meeting by one or more Participants or by Pool Managers which is
175 not a matter otherwise subject to the voting provisions of Sub-clause (e) or (f); and
- 176 (iv) appointment of auditors.
- 177 (e) The following matters shall be resolved by a two-thirds majority based on the number of Pool Vessels owned or
178 controlled by the Participants, each Pool Vessel giving one vote, present or represented, at the Participants' Meeting:
- 179 (i) approval of Pool Points and changes to the Pool Points Formula;
- 180 (ii) charter-out commitments for periods in excess of twelve (12) months unless otherwise stated in [Box 10](#), subject
181 to the approval of the Owner of the Pool Vessel;
- 182 (iii) charter-in Additional Tonnage for periods in excess of twelve (12) months;
- 183 (iv) approval of contracts outside the normal course of business;
- 184 (v) approval of use of Participants' main or branch offices or subsidiaries for concluding contracts for the provision
185 or sub-contracting of services;
- 186 (vi) approval of contracts for bulk buying of services or supplies with an annual value of more than the amount
187 stated in [Box 11](#);
- 188 (vii) approval of framework contracts for bunkers, agency and brokerage;
- 189 (viii) winding up of the Pool in accordance with [Clause 22](#) (Winding up of Pool); and
- 190 (ix) approval of the appointment of new Pool Managers following notice of termination given by the Pool Managers
191 in accordance with [Clause 21](#) (Termination by Pool Managers).
- 192 (f) The following matters shall be resolved by a unanimous decision of those present or represented at the Participants'
193 Meeting with the exception of (ii) below which shall require unanimity of all Participants (other than the Participant(s)
194 who may be expelled):
- 195 (i) approval of co-operation or joint venture agreements;
- 196 (ii) expulsion of Participant(s); and
- 197 (iii) approval of new Participants.
- 198 (g) Approval of proposed changes to the Pool Agreement shall require unanimity of all Participants and the consent of
199 the Pool Managers.
- 200
- 201 (h) Participants may be represented by proxy, who shall have full voting rights.
- 202 **13. Calculation of Pool Gross Revenue, Pool Net Revenue and Pool Expenses**
- 203 Pool Net Revenue in respect of all Pool Vessels in any one month shall equal Pool Gross Revenue less Pool Expenses
204 as described in [Sub-clauses 13\(a\)](#) and [13\(b\)](#) below:
- 205 (a) Pool Gross Revenue is comprised of:
- 206 (i) each Pool Vessel's total voyage income (whether a voyage has been completed or not and including without
207 limitation freight and demurrage) based on voyage estimates and/or provisional voyage accounts and pro rated
208 for the number of voyage days in the applicable month;

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- 209 (I) hire receivable for Pool Vessels fixed on time charters;
- 210 (II) any currency exchange gains;
- 211 (IV) Interest earned;
- 212 (V) bunker hedging receipts;
- 213 (VI) Insurance money received under policies taken out by the Pool Managers for the Pool Vessels;
- 214 (VII) all income of any nature due to the Pool arising out of the operation of, or in any way connected with the Pool
- 215 Vessels and from Additional Tonnage and operations under this Pool Agreement; and
- 216 (VIII) any indemnities and/or damages received by the Pool Managers arising out of the operation of, or in any way
- 217 connected with the Pool Vessels and the Pool.
- 218 (b) Pool Expenses are comprised of:
- 219 (i) each Pool Vessel's total voyage expenses payable under the applicable Transportation Contract including
- 220 without limitation, agents, tugs, trade related insurance, premia, port expenses, wharfage, brokerage
- 221 commission, bunkers, canal fees and additional War Risk premia and any other Charterers' expenses under the
- 222 Participating Charter relevant to that Pool Vessel;
- 223 (ii) any liabilities or damages payable by the Pool Managers to any contractual party, including to a Participant
- 224 under the Participating Charter;
- 225 (iii) all other expenses or amounts properly payable by the Pool Managers in connection with the operation of the
- 226 Pool Vessels and in connection with performing the business of the Pool;
- 227 (iv) any currency exchange losses;
- 228 (v) legal fees and any reasonable third party consulting fees incurred directly with respect to the business of the
- 229 Pool, including auditing fees;
- 230 (vi) all costs of Additional Tonnage;
- 231 (vii) bunker hedging expenses;
- 232 (viii) the Pool Managers' entitlement to remuneration as per [Box 12](#); and
- 233
- 234 (ix) any costs, liabilities or damages incurred by the Pool Managers other than as a result of their negligence, gross
- 235 negligence or wilful misconduct,
- 236 net of any refunds, rebates and commissions received.
- 237 Any shortfall to cover anticipated Pool Expenses shall be made good by the Participants in accordance with the
- 238 allocation of Pool Points at the Pool Managers' request and such payments shall be treated as a contribution to the
- 239 Pool's Working Capital (see [Sub-clause 16\(d\)](#)).
- 240 (c) Any costs, liabilities or damages arising solely from the Pool Managers' negligence, gross negligence or wilful
- 241 misconduct in performance of, or breach of, its duties and obligations pursuant to this Pool Agreement, shall be
- 242 compensated to the Pool by the Pool Managers.
- 243 14. Pool Managers' Accounts
- 244 (a) The Pool Managers shall at all times maintain and keep true and correct accounts in respect of the operation of the
- 245 Pool in accordance with the relevant International Financial Reporting Standards (IFRS) or such other standard as the
- 246 parties may agree, including records of all costs and expenditure incurred, and produce a comparison between
- 247 budgeted and actual income and expenditure of each Pool Vessel in such form and at such intervals as shall be
- 248 mutually agreed. All accounts shall be kept in U.S. Dollars. The Pool Managers shall maintain systems of internal
- 249 controls designed to provide reasonable assurance that transactions are properly executed sufficient to meet the

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- 250 requirements of an independent audit performed in accordance with IFRS or such other standard as the parties may
251 agree.
- 252 (b) A Participant may present claims for reimbursement of Pool Expenses paid by it no more often than weekly, and the
253 Pool Managers shall pay valid (and properly documented in accordance with this Clause) claims within five working
254 days after receipt. The Pool Managers shall have the right to audit Pool Expenses claimed by any Participant and to
255 require original invoices and vouchers for all amounts claimed.
- 256 (c) Financial Statements
257 The Pool Managers shall prepare and submit financial statements to the Participants. Monthly and quarterly statements
258 (or other such interval as may be mutually agreed in accordance with Sub-clause 14(a)) shall be unaudited and one
259 annual statement shall be audited.
- 260 15. Participants' Obligations
261 (a) The obligations of a Participant to make payment to the Pool Managers shall under no circumstances exceed the
262 aggregate of:
- 263 (i) the amounts due from the Participant under the Participating Charter;
264 (ii) any damages payable by the Participant to Pool Managers as a result of the Participant's breach of its
265 obligations under the Pool Agreement and/or the Participating Charter;
266 (iii) any amount payable pursuant to Clause 18 (Withdrawal) as a result of a withdrawal of a Pool Vessel; and
267 (iv) amounts due under this Pooling Agreement up to the date of withdrawal in accordance with Clause 18
268 (Withdrawal) and shall include, but not be limited to negative hire payments (Clause 16(b)(iv)) and Working
269 Capital/Operational Losses (Clause 16(d)).
- 270 (b) The provisions of the Pool Agreement and of Clause 16 (Hire) in particular, regarding the calculation of hire, shall
271 reflect a profit sharing agreement, it being agreed and understood that the Participant shall have no obligations in
272 excess of what is expressly agreed in the Pool Agreement.
- 273 18. Hire
274 (a) Calculation of Hire
275 In respect of each Pool Vessel for which it is the responsible Participant, a Participant shall be entitled to receive
276 hire calculated as follows:
- 277
$$\text{Hire} = \text{PNR} \times \frac{Y}{Z}$$
- 278 Where:
279 PNR = Pool Net Revenue.
280 Y = the individual Pool Points (PP) for each Pool Vessel multiplied by the time on hire pursuant to the
281 Participating Charter (H) within the calendar month in respect of which the calculation is made.
282 Z = the Pool Points (PP) multiplied by the time on hire pursuant to the Participating Charter (H) for each vessel
283 for all Pool Vessels during the same period as stated above,
284 i.e. $\sum ((PP_1 \times H_1) + (PP_2 \times H_2) + \dots + (PP_n \times H_n))$
- 285 (b) Payment of Hire
286 (i) Hire shall be calculated in accordance with Sub-clause (a) to the end of each calendar month in respect of Pool
287 Net Revenue, and shall be paid within fifteen (15) days after the end of each calendar month.
- 288 (ii) Subject to the Pool Managers' right to limit distributions under Sub-clause (d)(ii)(2), if funds do not permit the
289 distribution of an outstanding balance due to Participants of Pool Net Revenue received subsequent to the end
290 of any calendar month in which it was earned, such balance shall be distributed to Participants together with the
291 next, or if not available with a subsequent, month's payment.
- 292 (iii) A final distribution of hire ("Final Distribution") shall be calculated in respect of each Pool Year on the basis of
293 the Pool Accounts. The entitlement of a Participant to receive a Final Distribution shall be adjusted to take
294 account of payments of Hire made under this Sub-clause (b) in respect of the same Pool Year, and the balance
295 settled in cash not later than six (6) months after final accounts at the end of the Pool Year.

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- 296 (iv) If any calculation under this Sub-clause (b) results in a negative amount, such amount shall be payable by the
297 Participant and shall be paid by the Participant to the Pool Managers within five (5) days after demand, or the
298 Pool Managers may set off such amount against current entitlement to distribution.
- 299 (v) All payments of Hire by the Pool Managers or demands under Sub-clause (b)(iv) shall be accompanied by a
300 detailed calculation of such payment or demand.
- 301 (c) Statements of Account
302 After the end of each Pool Year, the Pool Managers shall within thirty (30) days submit final accounts for the Pool Year
303 duly certified by the Auditors appointed by the Participants.
- 304 (d) Working Capital / Contribution to Operational Losses
305 (i) Working Capital shall be paid in by each Participant as follows:
- 306 (1) in respect of each Pool Vessel on the date it becomes a Pool Vessel in an amount determined by the
307 Participants' Meeting; and
- 308 (2) as required by the Pool Managers and approved by the Participants' Meeting from time to time and shall be
309 provided by the Participants based on their allocated Pool Points. During each Pool Year the Pool Managers
310 shall limit distributions to ensure that Working Capital is maintained.
- 311 (ii) If the aggregate of Working Capital supplied by a Participant in respect of Pool Vessels exceeds the aggregate it
312 is required to contribute, taking into account any credit to which it is entitled, it shall be entitled to repayment of
313 the excess.
- 314 (iii) If operating losses occur (i.e. Pool Expenses exceeding Pool Gross Revenue), the Pool Managers shall allocate
315 such operating losses between Participants in accordance with their number of allocated Pool Points.
- 316 (iv) Participants shall contribute to operating losses or Working Capital within five (5) days from receipt of demand
317 and delayed payment shall be subject to interest calculated on a one month LIBOR rate plus the percentage
318 stated in [Box 13](#). If [Box 13](#) is not filed in then three per cent (3%) shall apply.
- 319 17. Pool Points
320 (a) The formula for calculating Pool Points is described in Annex D (Pool Points Formula). Its objective is to produce a
321 distribution key which reflects the relative earning capacity of the Pool Vessels.
- 322 (b) The Pool Points for a new Pool Vessel shall be determined by the Participants' Meeting, taking into account any
323 proposal presented by the Pool Managers, using the formula referred to in Sub-clause (a) above and also taking into
324 account any special factors relating to the new Pool Vessel.
- 325 (c) In addition to the on-going review conducted by the Pool Managers under [Clause 8](#) (Pool Management), the voyage
326 results and performance of all Pool Vessels shall be reviewed every six (6) months, except for the first period if less
327 than six (6) months, on respectively 1 January and 1 July by the Pool Managers. The Pool Managers shall review the
328 results and performance with the purpose of ensuring that the Pool Points are fair and equitable taking into account
329 factors affecting the relative earning capacity of the Pool Vessels, including but not limited to:
- 330 (i) changes in the projected or actual trading pattern of the Pool Vessels which will affect their relative trading
331 value;
- 332 (ii) changes in the price and other costs relating to bunkers;
- 333 (iii) introduction of new rules and regulations, including imposition of trading restrictions affecting the employment or
334 employment potential of the Pool Vessels; and
- 335 (iv) changes or modifications to the Pool Vessels' capacity, size and/or technical conditions since the Pool Points
336 were last determined.
- 337 Any recommendations of the Pool Managers for changing either the Pool Points or the Pool Points Formula shall be put
338 before the next Participants' Meeting (see [Sub-clause 13\(e\)\(ii\)](#)). All revisions are effective for future Pool Points only,
339 but with effect from the reference date in respect of which they were made.

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- 340 (d) The Pool Points for each Pool Vessel may be revised at shorter intervals if, in the reasonable opinion of the Pool
341 Managers, changed circumstances require an adjustment of Pool Points.
- 342 18. Withdrawal
- 343 (a) Withdrawal of a Vessel
- 344 (i) A Participant may withdraw a Pool Vessel from the Pool only in accordance with this Clause.
- 345 (ii) A Participant may withdraw a Pool Vessel:
- 346 (1) in the case of a sale of the Vessel, or in the case of an affiliate which is the Owner of the Pool Vessel
347 ceasing to be an affiliate; or
- 348 (2) for service under a time or demise charter exceeding the period stated in [Box 6](#).
- 349 Provided that in any such case at least thirty (30) days prior written notice of withdrawal shall be given to the
350 Pool Managers and withdrawal shall take effect on the thirtieth (30th) day or, if on voyage at that time, on
351 completion of that voyage. If the Pool Vessel's commitments exceed one voyage at the time of giving such
352 notice and the Participant can provide a Substitute Vessel that is accepted by the charterer, if any, the
353 Participant may withdraw the Pool Vessel as soon as substitution can be made.
- 354 (b) Withdrawal of a Participant
- 355 A Participant may withdraw from the Pool upon written notice to the Pool Managers. This shall have the effect of
356 withdrawing all the Pool Vessels for which it is the responsible Participant, with the date of withdrawal (to be
357 determined for each Vessel individually) to be as follows:
- 358 (i) six (6) months after delivery of the notice;
- 359 (ii) on expiry of the Vessel's current commitments,
- 360 whichever is later.
- 361 Upon withdrawal of a Participant, the Pool Managers shall value the existing Transportation Contracts which exceed
362 more than the voyages then in progress and the withdrawing Participant shall make a payment to the Pool Managers in
363 an amount equal to the amount by which the Transportation Contracts are less than the market rate pro-rated on the
364 basis of the number of Pool Vessels in total and the number of the withdrawing Participant's Pool Vessels. If the
365 Transportation Contracts are at a rate exceeding the market rate, no payment shall be made to the withdrawing
366 Participant. If the parties fail to agree on such valuation the matter shall be determined by the average of the
367 assessments of two chartering brokers, one appointed by the Pool Managers and the other by the withdrawing
368 Participant. If either party fails to appoint a broker within fourteen (14) days of the request of the other party to do so,
369 the appointed broker's determination shall be binding upon the parties. The foregoing payment mechanism shall,
370 without prejudice to the Pool Managers' rights under Sub-clause (c) below, also apply to the withdrawal of a Pool
371 Vessel or Pool Vessels in accordance with this [Clause 18](#).
- 372
- 373 (c) If the Pool Managers determine that one or more Pool Vessels due to be withdrawn under [Sub-clauses 18\(a\)](#) or
374 [18\(b\)](#) are required to enable the Pool to perform its contractual obligations under Transportation Contracts, then and in
375 that event the Participant must from the time of its/their withdrawal either supply one or more Substitute Vessels or if it
376 does not provide a Substitute Vessel or Vessels, pay compensation to enable the Pool Managers to charter suitable
377 vessels.
- 378 (d) In making a determination under [Sub-clause 18\(c\)](#), the Pool Managers shall take into account all notices served
379 under [Sub-clauses 18\(a\)](#) or [18\(b\)](#) and shall, to the extent possible, act reasonably to allocate the burden of [Clause](#)
380 [18\(c\)](#) between Participants who have served notices under [Sub-clauses 18\(a\)](#) or [18\(b\)](#).
- 381 (e) Following service of notices under [Sub-clauses 18\(a\)](#) or [18\(b\)](#), no further Transportation Contracts shall be entered
382 into by the Pool Managers which would be reliant upon the service in the Pool of the withdrawing Vessels.
- 383 (f) Constructive / Total loss of Pool Vessel
- 384 A Pool Vessel which becomes an actual, constructive or compromised total loss is deemed to be withdrawn with effect
385 from time of loss or if this unknown at the time the Vessel was last heard from and the Participant which entered the

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- 386 Vessel in the Pool shall not be obligated to provide a Substitute Vessel or pay compensation to the Pool in such
387 circumstances.
- 388 (g) Redelivery
389 In the event of withdrawal the actual time and range of place of redelivery shall be decided and notified by the Pool
390 Managers at their discretion as early as practicable within the notice period in this [Clause 18](#). Redelivery shall take
391 place at the last port of discharge from dropping last outward sea pilot.
- 392 (h) Working Capital contribution made shall be repaid without any interest in respect of each Pool Vessel when it
393 ceases to be a Pool Vessel.
- 394 19. Non-compete
395 A Participant shall not be entitled to operate in the same trades as the Pool with Qualifying Vessels.
- 396 20. Insurance Policies
397 (a) Participants' Insurance cover
398 The Participants shall procure that throughout the period of the Pool Agreement:
- 399 (i) at the Participants' expense, the Pool Vessel is insured for not less than its sound market value or entered for its
400 full gross tonnage, as the case may be for:
- 401 (1) hull and machinery marine risks (including but not limited to crew negligence) and excess liabilities;
402 (2) protection and indemnity risks (including but not limited to pollution risks, diversion expenses and crew
403 insurances);
404 (3) war risks (including but not limited to blocking and trapping, protection and indemnity, terrorism and crew
405 risks); and
406 (4) such optional insurances as may be agreed (such as loss of hire and FD & D) (see [Box 14](#)).
- 407 Insurances under Sub-clauses [20\(a\)\(1\)](#) to [20\(a\)\(4\)](#) shall be taken out all in accordance with the best practice
408 of prudent owners of vessels of a similar type to the Pool Vessel, with sound and reputable insurance
409 companies, underwriters or associations ("the Participants' Insurances");
- 410 (ii) all premiums and calls on the Participants' Insurances are paid by their due date; and
411 (iii) written evidence is provided, to the reasonable satisfaction of the Pool Managers, of the Participants'
412 compliance with their obligations under this [Clause 20](#) within a reasonable time of the commencement of the
413 Pool Agreement and of each renewal date and, if specifically requested, of each payment date of the Owners'
414 Insurances.
- 415 (b) Pool Managers' insurance cover
416 The Pool Managers shall take out charterers' liability insurance appropriate to their trading activities in their own name.
- 417 21. Termination by Pool Managers
418 The Pool Managers may serve notice of termination of their role as Pool Managers on the Participants by giving six (6)
419 months written notice to the Participants. The Participants Meeting convened in accordance with [Clause 12](#)
420 (Participants' Meeting) shall decide on whether a new Pool Manager shall be appointed.
- 421 22. Winding up of Pool
422 (a) The Pool shall be wound up if a Participants' Meeting with a two-thirds majority votes to this effect or if the Pool
423 Managers have terminated in accordance with [Clause 21](#) (Termination by Pool Managers) and the Participants'
424 Meeting cannot agree on the appointment of a new Pool Manager in accordance with [Clause 12](#) (Participants'
425 Meeting).
- 426 (b) If the Pool is wound up:
427 (i) The Pool Managers shall not enter into any further Transportation Contracts;

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- 428 (II) no withdrawals of Pool Vessels by notice shall be permitted, but each Pool Vessel shall cease to be a Pool
429 Vessel when it is no longer required to perform a Transportation Contract (as the Pool Managers shall
430 reasonably determine);
- 431 (III) the Participants shall be released from further performance of Clause 19 (Non-compete); and
- 432 (IV) when all Transportation Contracts have been performed, this Agreement shall terminate (without prejudice to
433 any rights accrued before termination).
- 434 **23. Default**
435 **if a Participant:**
- 436 (a) is adjudged bankrupt or insolvent, or is ordered to be wound up, or enters into voluntary winding up (otherwise than
437 for the purpose of reconstruction or amalgamation), or has a bona fide petition presented for its winding up and not
438 withdrawn within forty-five (45) days (or, in each case, the equivalent in any relevant jurisdiction);
- 439 (b) suffers the appointment of a receiver, manager, administrator (or, in each case, the equivalent in any relevant
440 jurisdiction) over all or a substantial proportion of its assets;
- 441 (c) requests or enters into any composition or arrangement with its creditors;
- 442 (d) fails to pay within twenty-eight (28) days after written demand, any sum in excess of USD 10,000 which may be due
443 from it under this Agreement (including any Participating Charter);
- 444 (e) commits any material breach of its obligations under this Agreement (including any Participating Charter), which is
445 not rectified within twenty-eight (28) days after written notice given by any other Participant and/or the Pool Managers;
446 or
- 447 (f) is unable to or fails to withdraw a Pool Vessel in accordance with the terms of this Agreement that has been
448 terminated under the relevant head charter party before its contractual expiry date,
- 449 then, if so resolved by the Participants' Meeting in accordance with Sub-clause 12(f)(ii), that Participant shall cease to
450 be a Participant and any Participating Charter in respect of the Pool Vessels controlled by the defaulting Participant
451 may be cancelled with immediate effect and the Pool Managers shall redeliver the Pool Vessels as soon as convenient.
452 The consequences of such an expulsion of a Participant shall be without prejudice to the Pool Managers' right to claim
453 damages as per the provisions of Clause 24 (Rights on Termination and Withdrawal).
- 454 **24. Rights on Termination and Withdrawal**
455 Any termination of a Participant's participation in the Pool and any withdrawal of a Pool Vessel from the Pool, whether
456 at the instance of the relevant Participant or the Pool Managers or the other Participants or on total loss of that Pool
457 Vessel, shall be without prejudice to all rights and obligations of the parties up to the effective date of such termination
458 or withdrawal or to any rights and obligations which survive such termination or withdrawal in accordance with the Pool
459 Agreement including payment of Hire.
- 460 **25. Hardship and Force Majeure**
461 (a) If the continued performance of this Agreement becomes burdensome for the parties to this Agreement due to an
462 event or events not contemplated at the time of entering into this Agreement, then the parties agree to negotiate a
463 solution in good faith.
- 464 (b) Without prejudice to the terms of the underlying Participating Charter, none of the parties to this Agreement shall be
465 under any liability of any kind or nature in the event that it should fail to perform any services or obligations hereunder if
466 any such failure is directly or indirectly caused by war, war-like activities, government orders, supervening illegality or
467 any labour shortage, strike (excluding strike by crew) or lock-out or any shortage of material or act of God or Peril of the
468 Sea, or any cause beyond the control of such party.
- 469 **26. Confidentiality**
470 Each of the Participants and the Pool Managers agree to keep confidential and not to disclose to any third party or
471 exploit any secret or confidential information concerning any other Participant or the Pool Managers' business or
472 affairs. This obligation shall continue during the Pool Agreement and after its termination howsoever occurring, but shall
473 cease to apply to any information which may come into the public domain (otherwise than through the default of any of
474 the parties hereto), or to any information which a Participant becomes compelled by law to disclose.

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- 475 27. **Assignment**
476 A Participant may not assign or transfer any of its rights under this Pool Agreement without the prior written consent of
477 all the other Participants unless such assignment is to an affiliate or in the event of an assignment to that Participant's
478 financiers.
- 479 28. **Notices**
480 (a) All notices given by either party or their agents to the other party or their agents in accordance with the provisions of
481 the Pool Agreement shall be in writing and shall, unless specifically provided in the Pool Agreement to the contrary, be
482 sent to the address for that other party as set out in Boxes 15 and 17 or as appropriate or to such other address as the
483 other party may designate in writing.
- 484 A notice may be sent by registered or recorded mail, facsimile, electronically or delivered by hand in accordance with
485 this Sub-clause (a).
- 486 (b) Any notice given under this Agreement shall take effect on receipt by the other party and shall be deemed to have
487 been received:
- 488 (i) If posted, on the seventh (7th) day after posting;
489 (ii) If sent by facsimile or electronically, on the day of transmission; and
490 (iii) If delivered by hand, on the day of delivery.
- 491 And in each case proof of posting, handing in or transmission shall be proof that notice has been given, unless proven
492 to the contrary.
- 493 29. **Dispute Resolution Clause**
494 (a) *This Pool Agreement shall be governed by and construed in accordance with English law and any dispute arising
495 out of or in connection with this Pool Agreement shall be referred to arbitration in London in accordance with the
496 Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to
497 the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators
498 Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. The reference shall
499 be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such
500 appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of
501 that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator
502 and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator
503 and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without
504 the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the
505 other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by
506 agreement. In the event that there are more than two parties to the arbitration then all three arbitrators shall be
507 appointed by agreement between the parties. In the event that the parties cannot agree on the three arbitrators within
508 14 days of one party giving notice to the other parties calling for arbitration, any party to the dispute shall be entitled to
509 apply to the President of the LMAA who shall then appoint all three arbitrators.
- 510 Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a
511 sole arbitrator.
- 512 In cases where neither the claim nor any counterclaim exceeds the sum of US\$100,000 (or such other sum as the
513 parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at
514 the time when the arbitration proceedings are commenced.
- 515 (b) *This Pool Agreement and any non-contractual obligations arising out of it shall be governed by and construed in
516 accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising
517 out of or in connection with this Pool Agreement shall be referred to three persons at New York, one to be appointed by
518 each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final,
519 and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent
520 jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.
521 In the event that there are more than two parties to the arbitration then all three arbitrators shall be appointed by
522 agreement between the parties. In the event that the parties cannot agree on the three arbitrators within 14 days of one

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Part II
POOLCON A- Standard Pooling Agreement for dry and liquid bulk cargoes carried on a tramp basis

- 523 party giving notice to the other parties calling for arbitration, any party to the dispute shall be entitled to apply to the
524 President of the SMA who shall then appoint all three arbitrators.
- 525 In cases where neither the claim nor any counterclaim exceeds the sum of US\$100,000 (or such other sum as the
526 parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the
527 Society of Maritime Arbitrators, Inc.
- 528 (c) "This Pool Agreement shall be governed by and construed in accordance with the laws of the place mutually agreed
529 by the parties and any dispute arising out of or in connection with this Pool Agreement shall be referred to arbitration at
530 a mutually agreed place, subject to the procedures applicable there.
- 531 Notwithstanding [Sub-clauses \(a\), \(b\) or \(c\)](#) above, the parties may agree at any time to refer to mediation any
532 difference and/or dispute arising out of or in connection with this Pool Agreement.
- 533 (d) In the case of a dispute in respect of which arbitration has been commenced under [Sub-clauses \(a\), \(b\) or \(c\)](#)
534 above, the following shall apply:
- 535 (i) A party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by
536 service on the other party (or parties) of a written notice (the "Mediation Notice") calling on the other party (or
537 parties) to agree to mediation.
- 538 (ii) The other party (or parties) shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm
539 that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14
540 calendar days, failing which on the application of either party (or parties) a mediator will be appointed promptly
541 by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The
542 mediation shall be conducted in such place and in accordance with such procedure and on such terms as the
543 parties may agree or, in the event of disagreement, as may be set by the mediator.
- 544 (iii) If the other party (or parties) does (do) not agree to mediate, that fact may be brought to the attention of the
545 Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between
546 the parties.
- 547 (iv) The mediation shall not affect the right of either party (or parties) to seek such relief or take such steps as it
548 (they) considers (consider) necessary to protect its (their) interests.
- 549 (v) A party (or parties) may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall
550 continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account
551 when setting the timetable for steps in the arbitration.
- 552 (vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the
553 mediation and the parties shall share equally the mediator's costs and expenses.
- 554 (vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed
555 during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and
556 procedure governing the arbitration.
- 557 (Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)
- 558 If [Box 15](#) is not filled in, [Sub-clause \(a\)](#) of this Clause shall apply.
- 559 ["Sub-clauses \(a\), \(b\) and \(c\)"](#) are alternatives; indicate alternative agreed in [Box 15](#). Sub-clause (d) shall apply in all
560 cases.
- 561 30. **Severability**
562 If any provision of this Pool Agreement is or becomes or is held by any arbitrator or other competent body to be illegal,
563 invalid or unenforceable in any respect under any law or jurisdiction, the provision shall be deemed to be amended to
564 the extent necessary to avoid such illegality, invalidity or unenforceability, or, if such amendment is not possible, the
565 provision shall be deemed to be deleted from this Pool Agreement to the extent of such illegality, invalidity or
566 unenforceability, and the remaining provisions shall continue in full force and effect and shall not in any way be affected
567 or impaired thereby.

**ANNEX "A" (POOL PARTICIPANTS)
TO THE BIMCO STANDARD POOLING AGREEMENT
CODE NAME: POOLCON A**

Name of Participant	Address and Contact Details

[\[Press Tab to create a new row in the table\]](#)

[See Clause 1]

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**ANNEX "B" (PARTICIPATING CHARTER)
TO THE BIMCO STANDARD POOLING AGREEMENT
CODE NAME: POOLCON A**

NOTE:

Normally a standard form of charter party will be used. In this charter party the provisions regarding payment of hire and the possible right of withdrawal due to non-payment should be deleted and substituted by reference to the Pool Agreement. The period of the charter party, delivery and redelivery, the payment of bunkers as well as the trading range for the Vessel shall also be in accordance with the Pool Agreement.

The standard charter party could include rider clauses which are common in the trades where the Pool Vessels will be engaged.

A copy of the Participating Charter as defined in Clause 1 (Definitions) of POOLCON should be attached to this Annex B.

[See Clauses 1, 2, 4, 7, 8, 13, 15, 16, 23 and 25]

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**ANNEX "C" (POOL VESSELS AND POOL POINTS)
 TO THE BIMCO STANDARD POOLING AGREEMENT
 CODE NAME: POOLCON A**

Pool Participant	Pool Vessel	Allocated Pool Points

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[See Clauses 1 and 17]

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**ANNEX "D" (POOL POINTS FORMULA)
TO THE BIMCO STANDARD POOLING AGREEMENT
CODE NAME: POOLCON A**

NOTE: The aim is that each Vessel shall be given points which reflect each Vessel's relative trading value (earning capacity). There will be a number of factors to be taken into account, such as the Vessel's age, GT, draft, speed and bunker consumption, gear and equipment on board and other specific features. The configuration of certain vessels may make them particularly competitive on certain trades and, if these are trades which the Pool wishes to be engaged in, may increase the value for such Vessels in the Pool. Often, the average Pool Vessel on which the points system is based is given 100 points, and then each Vessel in or joining the Pool will be assessed on the basis of the various relevant factors with the Vessel in question being awarded more or less points depending on the positive or negative effect of each relevant factor by comparison to the average Pool Vessel.

Reference is made to the Pool Agreement Clause 17 (Pool Points).

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**ANNEX "E" (ACCESSION AGREEMENT)
TO THE BIMCO STANDARD POOLING AGREEMENT
CODE NAME: POOLCON A**

THIS ACCESSION AGREEMENT is made on ____ (state date)

BETWEEN:

- (1) The Pool Managers;
- (2) The Participants (each an "Existing Participant" and together the "Existing Participants"); and
- (3) _____, a company organised and existing under the laws of ____ (the "New Participant").

PREAMBLE

Each Existing Participant, in its capacity as the owner of the vessel(s) listed against its name in Annex C (Pool Vessels and Pool Points) hereto (such vessels, together, the "Existing Vessels"), together with the Pool Managers, wishes to amend the Pool Agreement dated ____ ("The Pool Agreement") to provide for the New Participant, in its capacity as owner of the vessel(s) ____ (the "New Vessel(s)"), to become an additional party to the Pool Agreement.

NOW IT IS AGREED as follows:

1. Accession to the Pool Agreement:

- 1.1. The New Participant hereby covenants with each of the Existing Participants and the Pool Managers with effect from the date hereof to observe, perform and be bound by all the terms and conditions of the Pool Agreement.
- 1.2. Each of the Existing Participants and the Pool Managers covenant with the New Participant that with effect from the date hereof the New Participant shall be entitled to the benefit of the terms of the Pool Agreement.

2. Miscellaneous

- 2.1. This Agreement is supplemental to, and shall be read and construed together with, the Pool Agreement.
- 2.2. Clauses of the Pool Agreement, as amended and restated, shall apply, mutatis mutandis, to this Agreement as if set out in full herein.
- 2.3. This Agreement shall be governed by and construed, and any legal action or proceedings arising out of or in connection with this Agreement brought, in accordance the provisions in Box 15 of Part 1 of the Pool Agreement.
- 2.4. This Agreement may be executed in any number of counterparts each of which when executed shall be considered an original and all of which when taken together shall constitute one and the same instrument.
- 2.5. No third parties may enforce any term of this Agreement.

IN WITNESS whereof this Agreement has been duly executed and delivered on the day and year first above written.

Executed and delivered by:

The Pool Managers (for themselves and for and on behalf of the Existing Participants) _____

The New Participant _____

[See Sub-clause 8(a)]